

No. 14/13/87-6Lab./271.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s M. D. Kaithal Co-op Sugar Mill Ltd, Kaithal *versus* Balwant Singh.

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT AND SESSIONS JUDGE),
PRESIDING OFFICER, LABOUR COURT-CUM-LABOUR COURT, AMBALA

Reference No. 99 of 1992

WORKMAN—BALWANT SINGH. S/O SHRI SADHU RAM VILLAGE AND P. O. JAKHOULI,
DISTRICT KAITHAL

and

THE MANAGEMENT OF THE MANAGING DIRECTOR, KAITHAL CO-OPERATIVE
SUGAR MILL, LTD. KAITHAL.

Present :

Workman with Shri C. L. Sharma.

MR.—Shri Anil Kumar Sardana.

AWARD

The parties have amicably settled their dispute with the intervention of Lok Adalat. The management has agreed to reinstate the workman with continuity of service and in lieu thereof the workman has relinquished the claim of back wages. Statement of the parties have been recorded. In view of the statement recorded it is held that the applicant is entitled to reinstatement with continuity of service forthwith but without back wages. The parties shall be bound by their statements made in the court which shall form part of this award.

The reference shall stand answered accordingly.

The 7th January, 1995.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court-cum-
Lok Adalat, Ambala.

Endorsement No. 97, Ambala City dated the 25th January, 1995.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court-cum-
Lok Adalat Ambala.

The 29th February, 1995

No. 14/13/87-6Lab./272.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Swastik Feeds, Bullana, District Ambala *versus* Subhash Chand.

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT AND
SESSIONS JUDGE) PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 146 of 93

WORKMAN—SHRI SUBHASH CHAND, SON OF SHRI NAND LAL, VILLAGE
BULLANA TEHSIL AND DISTRICT AMBALA

and

THE MANAGEMENT—M/S SWASTIK FEEDS, BULLANA, DISTRICT AMBALA.

Present :

Workman. in person.

MR.—Shri C. L. Sehgal.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Subhash Chand and the management M/s Swastik Feeds, Bullana District Ambala to this court,—vide Haryana Government notification bearing No. 44619-25, dated the 10th November, 1993 :—

Whether termination of the services of Shri Subhash Chand is valid and justified? If not, so, to what relief is he entitled?

Today the parties appeared and made the following statements :—

बयान श्री सुभाष चंद, सन आफ नन्द लाल उम्र 28 साल गांव बुलाना ग्राम एस ए

बयान किया है कि मेरा प्रबन्धकों के साथ आयसी समझौता 3,500 रुपये इस शर्त पर हुआ कि मैं यह राशि प्राप्त करने के बाद अपना सर्विस का हक छोड़ता हूँ और उसके एवज में 3,500 रुपये लेकर अपना चुकता हिसाब करता हूँ। इस बिना पर फैसला कर दिया जावे।

बयान श्री सी एल सहगल पर्सनल, मैनेजर प्रबन्धक संस्था

बयान किया है कि श्रमिक की सेवाएं जांच करने के बाद समाप्त की गई थीं लेकिन श्रमिक ने 3,500 बतौर कम्पनसेशन प्राप्त करने के पश्चात् अपना नौकरी व अन्य इयूज छोड़ दिये हैं जो कि हमें मंजूर है।

In view of the statements of the parties, this reference shall stand answered against the workman. The parties shall be bound by the statements made which shall form part of this award.

S. R. BANSAL,

The 19th January, 1995.

Additional District and Sessions Judge,

Presiding Officer, Labour Court,
Ambala.

Endorsement No. 100, dated 25th January, 1995.

Forwarded, (four copies), to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act 1947.

S. R. BANSAL,

Additional District and Sessions Judge,

Presiding Officer, Labour Court,
Ambala.

The 28th February, 1995

No. 14/13/87-6 Lab./273.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Manager, Shahabad Farmers, Co-operative Marketing-cum-Processing Society Ltd., Shahabad *versus* Vishwa Mittar.

IN THE COURT OF SHRI S. R. BANSAL, (ADDITIONAL DISTRICT AND SESSIONS JUDGE), PRESIDING OFFICER, LABOUR COURT-CUM-LOK ADALAT, AMBALA

Reference No. No. 134 of 1994

WORKMAN, VISHWA MITTAR, S/O SHRI MELA RAM SAHANI, H. NO. 416/9,
MOHALLA SAIDEN SHAHABAD, KURUKSHETRA

and

THE MANAGEMENT OF THE MANAGER, SHAHABAD FARMERS, CO-OPERATIVE
MARKETING-CUM-PROCESSING SOCIETY LTD. SHAHABAD.

Present :—

Workman, with Shri R. Nath.

MR—Shri J. R. Sharma.

AWARD

The parties have amicably settled their dispute with the intervention of Lok Adalat. The management has agreed to reinstate the workman with continuity of service and in lieu thereof the workman has relinquished the claim of back wages. Statements of the parties have been recorded. In view of the statements of the parties it is held that the applicant is entitled to reinstatement with continuity of service forthwith but without back wages. The parties shall be bound by their own statements made in the court which shall form part of this award.

The reference shall stand answered accordingly.

The 7th January, 1995.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court-cum-
Lok Adalat, Ambala.

Endorsement No. 94, Ambala City dated the 28th January, 1995.

Forwarded, (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court-cum-
Lok Adalat, Ambala.

No. 14/13/87-6Lab/275.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Secretary, Kanthali Coop. Credit and Service Society Ltd., Kangthali (Kaithal) *versus* Shri Ranjit Singh.

IN THE COURT OF SHRI S.R. BANSAL, (ADDITIONAL DISTRICT AND SESSIONS JUDGE).
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 4 of 1992

between

WORKMAN—SHRI RANJIT SINGH, SON OF SHRI KESHO RAM, VILLAGE AND P. O.
KANTHALI, TEHSIL GULAH, DISTRICT KAITHAL

and

THE MANAGEMENT OF THE SECRETARY, KANTHALI, COOPERATIVE
CREDIT AND SERVICE SOCIETY LTD., KANGTHALI (KAITHAL)

2. DEPUTY REGISTRAR, CO-OPERATIVE SOCIETY, KURUKSHETRA.

Present :

Workman with Shri R. Nath.

MR, Shri Antu Ram.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (for short called as the Act), the Governor of Haryana has referred the following dispute between the workman Shri Ranjit Singh and the management (i) The Secretary, Kangthali

Co-operative Credit and Service Society, Kangthali (Kaithal) (ii) Deputy Registrar, Co-operative Society, Kurukshetra to this Court for adjudication,—vide Haryana Government Notification No. 44497—502, dated the 26th December, 1991:—

Whether the termination of the services of Shri Ranjit Singh is valid and justified ? If not so, to what relief is he entitled ?

Today, the parties have made the following statements in the Court :—

ब्यान श्री अन्तू राम, पुत्र श्री अर्जुन राम, आयु 60 साल निवासी कानथली आन एस ए ।

मैं सोसाईटी में कमेटी मॅम्बर हूँ । मुझे सोसाईटी ने एग्जिक्ट एम-1 पेश करने का व समझौता मानने का अधिकार दिया है । जिसके अनुसार वादीको 31 जुलाई, 1991 से नौकरी से हटाया था उसी तारीख से कान्ट्रिब्यूटो एन सविस व पिछले वेतन सहित नौकरी पर वापिस ले लिया जाएगा । इसके अनुसार फैसला किया जावे ।

ब्यान श्री रणजीत सिंह, पुत्र श्री कासू राम, आयु 24 साल आन एस ए

ब्यान वाला धुन लिया है जो दस्तखत व तसलीम है । इसके अनुसार फैसला कर दिया जावे ।

In view of the above statements, the reference shall stand answered to the effect that the workman is entitled to reinstatement with continuity of service and back wages.

S. R. BANSAL,

The 10th January, 1994.

Additional District and Sessions Judge,
Presiding Officer, Industrial Tribunal,
Ambala.

Endorsement No. 99, dated 25th January, 1995.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Industrial Tribunal,
Ambala.

No. 14/13/87-6 Lab./277.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, II, Faridabad in respect of the dispute between the workman and the management of M/s Cristic Dyeing and Printing (P) Ltd, Balabgarh *versus* Shri Birbal Ram.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,
FARIDABAD

Reference No. 53 of 1992

between

THE MANAGEMENT OF M/S CRISTIC DYEING PRIVATE LIMITED A/59, SECTOR-25,
BALABGARH.

and

THE WORKMAN, NAMELY SHRI BIRBAL RAM C/O SHRI C. L. GERA, 2A/116,
N. I. T. FARIDABAD.

Present :

Shri Pancha Nand, A.R. for the workman.
None for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Dispute Act, 1947 (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute between the parties mentioned above, to this court for adjudication,—*vide* Haryana Government Endorsement No. 3425—30, dated 20th January, 1992 :—

Whether the termination of services of Shri Birbal Ram is legal and justified ? If not, to what relief, is he entitled to ?

2. The case of the workman is that he was appointed 1st January, 1990. His last drawn salary was Rs. 1500 p. m. His services were illegally terminated on 30th June, 1991 without serving any notice. He is thus, entitled to be reinstated into service with continuity and full back wages.

3. Notice was sent to the management but none appeared. The management was thus, already to be proceeded against *ex parte*,—*vide* order dated 18th May, 1992.

4. The workman has examined himself.

5. I have heard Shri Panona Nand authorised representative of the workman and have also gone through the evidence of record.

6. The workman has vouched the facts mentioned above.

7. It is clear from the aforesaid evidence that the workman had rendered service for continuous period of more than 240 days before his services were terminated. No retrenchment compensation was given to the workman as required under section 25-F of the Act. The impugned action of the management terminating the service of the workman is thus, illegal as there is no evidence that he had left the job himself. The workman is entitled to be reinstated into service with continuity and full back wages. The award is passed accordingly.

The 7th February, 1994.

U. B. KHANDUJA,

Presiding Officer, Labour Court-II,
Faridabad.

Endorsement No. 1256, dated 8th February, 1994.

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Faridabad,

U. B. KHANDUJA,

Presiding Officer, Labour Court-II,
Faridabad.

The 7th March, 1995

No. 14/13/87-6Lab./287.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Industrial Cabel Ltd., Kilazafargarh (Jind) *versus* Shri Ram Kumar :—

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 229 of 1994

between

SHRI RAM KUMAR S/O SHRI DARIYA CHAND, V.P.O. BHAWAR
DISTRICT JIND

Workman

and

THE MANAGEMENT OF M/S INDUSTRIAL CABEL LTD., (TOWER),
KILAZAFARGARH, DISTRICT JIND.

Management

Present :

Workman, in person.

Shri S. Kaushal, authorised representative for the management.

AWARD

In exercise of the powers conferred by sub-clause (e) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this court for adjudication,—*vide* Labour Department Endorsement No. OV/71-91/40230—35, dated 19th November, 1991 :—

Whether the services of Shri Ram Kumar, have been terminated or he has left the service by remaining absent from duty ? To what relief he is entitled after decision on this point ?

2. The workman has made statement recorded separately. In view of his statement the reference is dismissed as withdrawn. The reference is answered and returned accordingly. with no orders as to costs.

The 11th January 1995.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

Endorsement No. 133, ref. 229-94, dated the 19th January, 1995.

Forwarded, (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

The 10th February, 1995

No. 14/13/87-6 Lab./226.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s The Mohindergarh Central Co-op. Bank Ltd., Mohindergarh *versus* Ram Singh :—

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, GURGAON.

Reference No. 27 of 91

RAM SINGH, S/O SHRI TEJ RAM, VILLAGE MOHANPUR, TEHSIL, NARNAUL, DISTT.
MOHINDERGARH

.. Workman

versus

M/S THE MOHINDERGARH CENTRAL CO-OPERATIVE BANK LTD., MOHINDERGRH .. Management

Present :

Shri S. K. Goswami, A.R. for the workman.

Shri M. P. Gupta, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (in short "the Act") the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 542—47 dated 3rd January, 1991 :—

Whether the termination of services of Ram Singh is just and legal ? If not, to what relief is he entitled ?

2. According to the claim statement, the workman was appointed as Secretary on 7th November 1977. His appointment was made on compassionate ground in place of his brother Kailash Chander, who

had died. The job was offered to him since his widow was uneducated and She had contacted Karewa marriage with him. (Petitioner). Services were terminated on 28th February, 1980. It is alleged that by then, the workman had completed more than 240 days of continuous service and compliance of Section 25F have not been made. A FIR was lodged against him regarding embezzlement, but the workman was acquitted by judgement dated 20th January, 1988. At the time of termination, the petitioner was getting Rs. 390/- p.m. as wages. The petitioner has sought his reinstatement with full back wages.

3. The management filed its reply and took up the plea that the demand notice had been sent after a gap of nine years and therefore, the claim was liable to be dismissed on account of delay and laches. It was pleaded that the workman was appointed on *ad hoc* basis for a fixed period and the period of appointment was extended from time to time after giving breaks and the petitioner had no right or lien. It was pleaded that a merit list was drawn up by the Selection Committee for the post of Secretary, Clerks, etc. and in the event of non availability of persons, *ad hoc* appointments were made. It was pleaded that recruitment procedure was not followed in the present case and the petitioner was not entitled to claim regularisation merely on the basis that he had completed 240 days. It was pleaded that workman had not been terminated due to misconduct and it was a separate case.

4. In the rejoinder, contents of the written statement were controverted, while those of the claim statement were reiterated.

5. On the pleadings, following issues were framed on 30th August, 1991 :—

- (1) Whether the reference is barred by time as per preliminary objection No.1 of the written statement ?
- (2) Whether the termination of services of Ram Singh is just and legal ? If not, to what relief is he entitled ?

6. I have heard authorised representatives of the parties and have gone through the evidence on record. My findings on the issues are as under :—

Issue No. 1 :

7. I had been argued before me that since the reference is barred by time, therefore, no relief can be granted to the workman. On the other hand, it was argued that no period was prescribed for making a reference and only appropriate Govt. can consider this matter and justify its stand by declining it to make the reference and since the reference has been made, the Court can only mould its relief in the light of delay made in making the reference.

8. In *Prem Singh versus Labour Commissioner, Punjab*, 1994 PLR page 354, the demand notice had been sent after three years of dismissal. No explanation for delay was given and the State Govt. had declined the reference and the workman had approached the Court. The matter was thrashed and it was held that there was no period of limitation prescribed for making a reference and Article 137 of the Limitation Act did not apply and it could not be laid as a proposition of law that the Government can in no case decline a belated reference and it is the adjudicating authority who can mould its relief in the light of delay made in making the reference.

9. In view of the above, it is found that the reference cannot be dismissed solely on account of the fact that the demand notice had been made belatedly but the relief can be moulded in the light of the delay made in making the reference. This issue is decided accordingly.

Issue No. 2 :

10. The management has examined Azad Singh, MW 1, who deposed that the workman was appointed as Secretary,—vide Ex. M1. He proved joining report Ex. M2, resolution Ex. M3, termination letter Ex. M4. He also proved letter Ex. M5,—vide which, the workman was again appointed subject to the approval of the Board. He proved resolution,—vide which, services of the workman were terminated. He stated that the workman had embezzled a sum of Rs. 4300 and had rejected its case.

11. On the other hand, the workman had stepped into the witness box as WW 1 and deposed that his appointment had been made on compassionate ground, but his services had illegally been terminated in 1980 and he had worked continuously without any break and neither any compensation or notice pay had been given. It is stated that false FIR had been lodged against him, but in appeal his conviction was set aside and he had filed the demand notice after his acquittal.

12. The management has taken up a stand in the written statement that the termination order was not passed on account of any mis-conduct on the part of the workman as the matter was separate and it was stressed that since the appointment was subject to the approval of the Board and the same was not given, the appointment was bad and one month's notice had been given as provided under rule 33.1 of the Haryana State Central Co-operative Bank Staff Service Rules, 1975.

13. It was contended that direct recruitment could be made only after inserting a proper advertisement in the leading Newspaper and select list was to be prepared in the order of merit and then appointment were to be made and this procedure was not followed and, therefore, Board did not give its approval.

14. The contention raised on behalf of the workman is that the workman had completed 240 days of service and his appointment could not be invalidated in this manner after a lapse of several years since his appointment for all practical purposes had been accepted for three years and since the workman had completed continuous service of 240 days, he was entitled to notice pay and compensation as per the mandatory provisions of Section 25F of the I.D. Act.

15. In *Nayagarh Co-operative Central Bank versus Narain Rath* 1977 (34) FLR page 37, the respondent was functioning as Secretary with the Co-operative Bank from 1955 to 1968 and an order was passed disapproving the appointment and an order for terminating the services was passed, which was ratified by the Board. It was held that it was not open to the Registrar of the Co-operative Society to set aside the appointment after having for all practical purposes except the appointments as valid.

16. No doubt, the workman had completed more than 240 days of service, it had not been shown that his appointment had been made for fixed period or that the appointment was extended from time to time or that there was any break in service. Compliance of Section 25F of the I.D. Act has not been made in this case, therefore, the termination is illegal.

17. The workman in this case had approached the Government nine years after his termination and I feel that he is not entitled to back wages for that period, as such, the petitioners entitled to reinstatement with back wages from the date of demand notice i.e., 26th July, 1989. Reference is answered accordingly with no order as to costs.

ANITA CHAUDHARY,

The 2nd January, 1995.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 99, dated 31st January, 1995.

Forwarded (four copies) to the Secretary to Govt. Haryana, Labour & Employment Departments, Chandigarh under Section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

No. 14/13/87-6Lab./229.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s Bandhu Machinery Pvt. Ltd., Plot No. 14, Industrial Area, Palam, Gurgaon Road, Gurgaon *versus* Ram Chander :—

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GURGAON.

Reference No. 6 of 1986

between

RAM CHANDER C/O R. N. ROY, MERCANTILE EMPLOYEES ASSOCIATION H- 347, NEW RAJINDER
NAGAR, NEW DELHI AND THE MANAGEMENT OF M/S BANDHU MACHINERY, PVT. LTD.,
PLOT NO. 14, INDUSTRIAL AREA, PALAM GURGAON ROAD, GURGAON.

Present :

Shri R. N. Roy, Authorised Representative for the workman.

Shri Sidhir Chadha, Authorised Representative for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub section (i) of section 10 of the Industrial Disputes Act, 1942 (in short 'the Act'), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Gazette notification number 52372--77, dated the 27th December, 1985:—

Whether the termination of Shri Ram Chander, son of Shri Budh Dev, just and legal ? If not to what relief is he entitled ?

2. According to the claim statement, Ram Chander workman was employed by the management as a Turner on 10th February, 1977 and he was drawing a salary of Rs. 480 p. m. His services were illegally terminated on 18th July, 1985. It was pleaded that a domestic enquiry was held against the principles of natural justice and proper opportunity was not given and the enquiry was held at his back. Workman has sought his reinstatement with full back wages.

3. In the written statement, it was pleaded that a proper enquiry was held and the charges were proved against the workman and full opportunity had been given to the workman and he is not entitled to any relief. It was also pleaded that the claim statement was not signed and verified by the workman and it was liable to be dismissed.

4. In the rejoinder, it was pleaded that the claim statement was signed by the President of the Association, who was authorised agent of the workman and the President of the Association had the right to sign the claim statement under section 36(i) (a) of the I. D. Act. It was pleaded that no intimation was ever received by the workman to attend the enquiry, therefore, the workman was entitled to reinstatement.

5. On the pleadings of the parties, following issues were framed on 17th March, 1986:—

- (1) Whether the enquiry is fair and proper ?
- (2) Whether the reference is bad in law as the workman has received full and final settlement of his claim ?
- (3) Whether the termination of Shri Ram Chander, son of Shri Budh Dev is just and legal ? If not, to what relief is he entitled ?

6. I have heard the authorised representative of the parties and have gone through the evidence led by them. My findings on the issues are as under :—

Issue No. 1 :

7. The management has examined Ashok Sharma MW-1, who was the Enquiry Officer. He deposed that the copy of the chargesheet had been sent to the workman,—*vide* Ex. M-2 and the venue and time of enquiry was also pointed out. He stated that he had also informed the workman,—*vide* letter Ex. M-4, but the workman did not participate or appear. He also referred to Ex. M-5 to Ex. M-8, which are letters sent to the workman to appear in the enquiry. He stated that the workman did not appear despite his best possible efforts and he had recorded the enquiry proceedings and had given his report Ex. M-11. He stated that he had conducted the enquiry as per standing orders of the factory. He has categorically stated in the cross examination that he had despatched the enquiry notices himself. He denied the suggestion that the workman had in fact appeared in the enquiry, but he did not take his signatures on the proceedings.

8. R.S. Yadav, MW-2 deposed that a fair, proper and impartial enquiry was held into the charges and after consideration of evidence. Enquiry Officer had given his report and the management have thereafter issued show cause notice Ex. MW 2/1, which was received by him—*vide* A. D. receipt MW 2/2, and dismissalal order Ex. MW 2/3 was passed. He stated that a representation was made to the management by the workman and the dismissal order was revoked and the Managing Director had considered the entire matter again and had subsequently passed an order which was issued on 10th July, 1985.

9. On the other hand, workman had appeared in the witness box as WW-1. He stated that on 20th February, 1982, he was called by the General Manager and was told that his services were no longer required and no termination letter was given and he made a complaint to the union, and a demand notice was filed before the Conciliation Officer. He stated that he had received a letter from the management that the enquiry was being held against him and he had submitted his reply Ex. W-3. He

also admitted that he received the letter regarding enquiry on 22nd February, 1982. He also admitted that he had received show cause notice Ex. MW-2/1 and he had given its reply Ex. W-5. In his cross examination, he explained that he had not appeared before the Enquiry Officer as the matter was already under consideration of the Conciliation Officer. He admitted that he had not moved any application before the Conciliation Officer that the management was holding an enquiry, added that. He had not written any letter to the Enquiry Officer that he would not appear there as his demand notice was pending. He, however, added that he had written letters to the Enquiry Officer regarding late receipt of the notices about the enquiry dates. However, these letters were not produced by him. He also stated that he was not working any where and was doing agriculture work and was helping his father in tilling the land and had not looked for any job.

10. If the enquiry is held without informing the workman of the specific time of the enquiry or sufficient time of the enquiry is not given, it would be denial of the reasonable opportunity. All that is required is that a workman is entitled to sufficient notice and reasonable opportunity. To meet the charges before the enquiring authority. The Enquiry Officer in this case, had sent a number of notices to the workman but the workman did not care to appear before the Enquiry Officer. Sufficient opportunity had also been given to meet out of the charges. Right from March, 1982 till August, 1983, Enquiry Officer had been sending notices and it has been admitted by the workman that he came to know of the enquiry, but did not appear since demand notices was pending. This explanation is meaning less when the Conciliation Officer had also brought this fact to the notice of the workman that enquiry was pending, but the workman did not care to appear and it was after a year that *ex parte* proceedings were started against him. Due notices had been given to the workman and it cannot be said that principles of natural justice had been violated. Letters have been sent at the address of the workman and it is not a case where address was not correct. It is, therefore, found that adequate notices of the enquiry had been given to the workman and he himself was to be blamed for not attending the same. Therefore, this issue is decided in favour of the management.

Issues No. 2 and 3 :

11. I propose to take up both the issues together as they are inter connected. The Enquiry Officer after considering the evidence came to the conclusion that the workman was guilty of serious misconduct. His enquiry is based upon evidence. The allegations against the workman were that he had abused the shift supervisor and indulged in violence when he was found not working and threatened the supervisor with dire consequences. At that time, security guard and two other persons were present. The allegations against him were that he had committed various omissions in the past and warning letters had been issued. Another allegations against him that he was negligent in his work and had refused lawful communication time and again. On the basis of the evidence brought by the management, charges were proved against the workman. The management thereafter had sent a notice to the workman and had passed the dismissal order. Order was revoked on representation made by the workman and again dismissal order was passed.

12. I have closely examined the enquiry report and I find that the enquiry report is not defective nor the same is perverse and the punishment awarded thereafter by the management is proportionate to the charges levelled against him. The punishing authority had applied its mind to the finding of the Enquiry Officer and had modulated the quantum of punishment and it cannot be said that punishment is excessive or too severe having regard to the misconduct and past record of the workman.

13. In the present case, the workman had also received full and final settlement and no protest was lodged and this fact also goes against him. In view of the above, it is found that the workman is not entitled to any relief. Reference is answered accordingly with no order as to costs.

ANITA CHAUDHARY,

The 9th January, 1995.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 104, dated the 31st January, 1995.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.